

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
GEORGE WISHART,**

Plaintiff,

-against-

Correction Officer **PETER WELKLEY** (in  
his individual capacity), *et al.*,

Defendants.

**Index No. 19-CV-6189 (DGL) (MWP)**

**DECLARATION OF ELLIOT DOLBY SHIELDS, ESQ.**

**Elliot Dolby Shields, Esq.**, an attorney duly admitted to practice law in the State of New York and the Western District of New York, declares pursuant to 28 U.S.C. § 1746, under the penalty of perjury, that the following is true and correct:

1. I am associated with Roth & Roth LLP, and I submit this declaration in support of the application for attorney's fees in this action by Joshua Moskovitz and Rob Rickner.

2. I have known both Mr. Moskovitz and Mr. Rickner for several years through the civil rights community in New York City, as well as the National Police Accountability Project, which is part of the National Lawyers Guild. I am also the co-chair of the Civil Rights and Liberties Committee at the New York County Lawyers Association along with Mr. Rickner, and, in that capacity, we have co-authored amicus briefs filed in the Ninth Circuit Court of Appeals and the Supreme Court of the United States.

3. I am a civil rights lawyer with 8 years of experience, and for several years have been with Roth & Roth, LLP, litigating many complex civil rights cases. For example, in 2018, we reached a settlement in the amount of \$4.5 million with the County of Nassau on behalf of

the family of 20-year-old Hofstra University sophomore Andrea Rebello, who was shot and killed by a Nassau County police officer on May 17, 2013.

4. I grew up in Rochester, New York. Consequently, I still have substantial contacts in the Rochester community and I regularly litigate federal civil rights claims in the Western District of New York. For example, I am lead counsel in *Cassacia v. City of Rochester, et al.*, 17-cv-6323, which is currently pending before this Court, and I was lead counsel in *Raliek Redd vs. City of Rochester, et al.*, 15-cv-6049, which arose from the highly publicized false arrest of my 15-year-old client and two of his teammates from the Edison Tech varsity basketball team, who were unlawfully stopped and falsely arrested by Rochester Police Department officers while waiting for a yellow school bus on Main Street in downtown Rochester. (*See, No charges for teens arrested while waiting for bus*, USA Today (Dec. 4, 2013), <https://www.usatoday.com/story/news/nation/2013/12/04/charges-against-ny-teens-will-be-dismissed/3868097/>).

5. I am also co-counsel to the Estate of Daniel Prude, who was killed by the Rochester Police Department. Like Rebello, I used the Freedom of Information Law to obtain the police records and body worn camera recordings of the incident, which has received substantial media attention. *See* Michael Wilson and Edgar Sandoval, *Documents Reveal How the Police Kept Daniel Prude's Death Quiet*, N.Y. TIMES (Sept. 15, 2020), <https://www.nytimes.com/2020/09/15/nyregion/rochester-police-daniel-prude.html>. As a result of the coordinated release of the body camera footage to the community activists and the media, state Attorney General, Letitia James, convened a grand jury against the officers responsible for Mr. Prude's death; Mayor Lovely Warren fired the Police Chief, La'Ron Singletary; the seven officers involved in Mr. Prude's death were suspended; the entire RPD Command Staff resigned;

Corporation Counsel Tim Curtain was suspended without pay for 30 days; and the City's Communications Director, Justin Roj, was suspended without pay for 30 days.

6. Like Mr. Rickner and Mr. Moskowitz, I am frequently contacted by clients seeking representation for civil rights claims arising in the Western District. Based on my contacts and experience in Rochester, there are few civil rights attorneys locally and civil rights claims are often litigated by attorneys based in New York City. Including Mr. Prude's case, I currently have nine cases in the Western District of New York. My clients have often told me they could not obtain local counsel, and Rochester criminal and personal injury attorneys refer me cases because they cannot refer the cases locally.


7. Moreover, even attorneys who do take civil rights cases in the Western District of New York, most will not handle cases involving the prisoner assaults or conditions of incarceration. Roth & Roth LLP, for example, only rarely takes cases involving prison conditions or prison assaults because of the legal difficulties and risks involved. When I am contacted by clients with such claims—and I am frequently contacted by people with such claims in the Western District—I regularly refer these cases to Mr. Rickner and Mr. Moskowitz because I the managing partner of my firm considers them too risky.

8. In my experience, there is a substantial shortage of civil rights attorneys who will handle prisoner-related claims in the Western District of New York. If attorneys outside the district did not represent such individuals, there would be very few cases with private retained counsel. For attorneys outside the Western District—particularly attorneys in locations like New York City, where office space, litigation support, and the cost of living are generally much higher—it would be financially impractical to represent indigent clients in the Western District without the availability of attorney's fees consistent with the market where those attorneys

**maintain an office. Thus, to fulfill the purpose of 42 U.S.C. § 1988 and encourage qualified civil rights attorneys like Mr. Rickner and Mr. Moskowitz to represent clients in this district, the Court should award rates to plaintiff's counsel consistent with rates of the Southern and Eastern Districts of New York.**

**Dated: New York, New York  
September 22, 2020**

**ROTH & ROTH LLP**

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